

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

VICTOR S. MARTINI,
Plaintiff

v.

PRESQUE ISLE CAPITAL MANAGEMENT,
INC., et al.,
Defendants.

C.A. No. 04-354

**District Judge McLaughlin
Magistrate Judge Baxter**

ORDER

_____ On June 27, 2005, this Court issued a Report and Recommendation granting in part and denying in part Defendants' Motion for Summary Judgment and/or Motion to Dismiss. [Document # 19]. On the same date, this Court issued an Order requiring Plaintiff to show cause as to why this case should not be dismissed for lack of subject matter jurisdiction by providing this Court with a statement of damages on or before July 18, 2005. [Document # 18]. On August 11, 2005, District Judge Sean J. McLaughlin issued an Order adopting this Court's Report and Recommendation, and ordering Plaintiff to provide the statement of damages required by this Court's Order dated June 27, 2005. [Document # 22]. To date, Plaintiff has failed to comply with either Order requiring the production of a statement of damages.

AND NOW, this 25th day of September, 2005;

IT IS HEREBY ORDERED that Plaintiff shall show cause before October 14, 2005, as to why this case should not be dismissed for lack of subject matter jurisdiction by providing this Court with a statement of damages attributable to the twenty-four securities purchases that were transacted by Defendants on Plaintiff's behalf after December 6, 1998. Failure to provide a statement of damages within such time will result in the dismissal of this case for failure to prosecute.

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Local Rule 72.1.3 B. Failure to appeal within ten

(10) days may constitute waiver of the right to appeal.

S/Susan Paradise Baxter
SUSAN PARADISE BAXTER
Chief U.S. Magistrate Judge